

  
Ronald H. Lewis, M.D., Chair  
Panel A

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8 *Attorneys for Complainant*

10 **BEFORE THE**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2015-013567

14 **THOMAS THANH BUI, M.D.**  
220 Commerce, Suite 100  
15 Irvine, CA 92602-1323

OAH No. 2018010212

16 **Physician's and Surgeon's Certificate**  
17 **No. A 105271**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18 Respondent.

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (complainant) is the Executive Director of the Medical Board  
24 of California (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Xavier Becerra, Attorney General of the State of California, by Michael J. Yun,  
26 Deputy Attorney General.

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1           2.     Respondent Thomas Thanh Bui, M.D. (respondent) is represented in this proceeding  
2 by attorney Carolyn Lindholm, Esq., whose address is:

3                   Bonne, Bridges, Mueller, O'Keefe & Nichols  
4                   355 South Grand Avenue, Suite 1750  
5                   Los Angeles, CA 90071-1562

6           3.     On or about August 20, 2008, the Board issued Physician's and Surgeon's Certificate  
7 No. A 105271 to respondent. The Physician's and Surgeon's Certificate was in full force and  
8 effect at all times relevant to the charges brought in Accusation No. 800-2015-013567, and will  
9 expire on August 31, 2018, unless renewed.

10                                   **JURISDICTION**

11           4.     Accusation No. 800-2015-013567 was filed before the Board, and is currently  
12 pending against respondent. A true and correct copy of Accusation No. 800-2015-013567 and all  
13 other statutorily required documents were properly served on respondent on September 18, 2017.  
14 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation  
15 No. 800-2015-013567 is attached as Exhibit 1 and incorporated herein by reference as if fully set  
16 forth herein.

17                                   **ADVISEMENT AND WAIVERS**

18           5.     Respondent has carefully read, fully discussed with counsel, and understands the  
19 charges and allegations in Accusation No. 800-2015-013567. Respondent has also carefully read,  
20 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
21 Disciplinary Order.

22           6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
23 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
24 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
25 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
26 documents; the right to reconsideration and court review of an adverse decision; and all other  
27 rights accorded by the California Administrative Procedure Act and other applicable laws, having  
28 been fully advised of the same by his attorney of record, Carolyn Lindholm, Esq.

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7. Respondent, having the benefit of counsel, hereby voluntarily, knowingly, and intelligently waives and gives up each and every right set forth and/or referenced above.

## CULPABILITY

8. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2015-013567 and that he has thereby subjected his Physician's and Surgeon's Certificate No. A 105271 to disciplinary action.

9. Respondent agrees that if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, or if he ever petitions for early termination or modification of probation, in any proceeding before the Medical Board of California, all of the charges and allegations contained in Accusation No. 800-2015-013567 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California.

## CONTINGENCY

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it. By signing this stipulation, respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Board, in its discretion, does

1 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of  
2 this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and  
3 shall not be relied upon or introduced in any disciplinary action by either party hereto.

4 Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary  
5 Order for any reason, respondent will assert no claim that the Board, or any member thereof, was  
6 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and  
7 Disciplinary Order or of any matter or matters related hereto.

#### 8 **ADDITIONAL PROVISIONS**

9 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
10 be an integrated writing representing the complete, final and exclusive embodiment of the  
11 agreements of the parties in the above-entitled matter.

12 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,  
13 including copies of the signatures of the parties, may be used in lieu of original documents and  
14 signatures and, further, that copies shall have the same force and effect as originals.

15 14. In consideration of the foregoing admissions and stipulations, the parties agree the  
16 Board may, without further notice to or opportunity to be heard by respondent, issue and enter the  
17 following Disciplinary Order:

#### 18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 105271  
20 issued to respondent Thomas Thanh Bui, M.D. (respondent) is revoked. However, the revocation  
21 is stayed and respondent is placed on probation for three (3) years from the effective date of this  
22 Decision, on the following terms and conditions:

23 1. **PRESCRIBING PRACTICES COURSE** Within 60 calendar days of the effective  
24 date of this Decision, respondent shall enroll in a course in prescribing practices approved in  
25 advance by the Board or its designee. Respondent shall provide the approved course provider  
26 with any information and documents that the approved course provider may deem pertinent.  
27 Respondent shall participate in and successfully complete the classroom component of the course  
28 not later than six (6) months after respondent's initial enrollment. Respondent shall successfully

1 complete any other component of the course within one (1) year of enrollment. The prescribing  
2 practices course shall be at respondent's expense and shall be in addition to the Continuing  
3 Medical Education (CME) requirements for renewal of licensure.

4 A prescribing practices course taken after the acts that gave rise to the charges in the  
5 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
6 or its designee, be accepted towards the fulfillment of this condition if the course would have  
7 been approved by the Board or its designee had the course been taken after the effective date of  
8 this Decision.

9 Respondent shall submit a certification of successful completion to the Board or its  
10 designee not later than 15 calendar days after successfully completing the course, or not later than  
11 15 calendar days after the effective date of the Decision, whichever is later.

12 2. **EDUCATION COURSE** Within 60 calendar days of the effective date of this  
13 Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee  
14 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
15 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
16 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
17 educational program(s) or course(s) shall be at respondent's expense and shall be in addition to  
18 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
19 completion of each course, the Board or its designee may administer an examination to test  
20 respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours  
21 of CME of which 40 hours were in satisfaction of this condition.

22 3. **CLINICAL COMPETENCE ASSESSMENT PROGRAM** Within 60 calendar  
23 days of the effective date of this Decision, respondent shall enroll in a clinical competence  
24 assessment program approved in advance by the Board or its designee. Respondent shall  
25 successfully complete the program not later than six (6) months after respondent's initial  
26 enrollment unless the Board or its designee agrees in writing to an extension of that time.

27 The program shall consist of a comprehensive assessment of respondent's physical and  
28 mental health and the six general domains of clinical competence as defined by the Accreditation

1 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to  
2 respondent's current or intended area of practice. The program shall take into account data  
3 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),  
4 Accusation(s), and any other information that the Board or its designee deems relevant. The  
5 program shall require respondent's on-site participation for a minimum of three (3) and no more  
6 than five (5) days as determined by the program for the assessment and clinical education  
7 evaluation. Respondent shall pay all expenses associated with the clinical competence  
8 assessment program.

9 At the end of the evaluation, the program will submit a report to the Board or its designee  
10 which unequivocally states whether respondent has demonstrated the ability to practice safely and  
11 independently. Based on respondent's performance on the clinical competence assessment, the  
12 program will advise the Board or its designee of its recommendation(s) for the scope and length  
13 of any additional educational or clinical training, evaluation or treatment for any medical  
14 condition or psychological condition, or anything else affecting respondent's practice of  
15 medicine. Respondent shall comply with the program's recommendations.

16 Determination as to whether respondent successfully completed the clinical competence  
17 assessment program is solely within the program's jurisdiction.

18 If respondent fails to enroll, participate in, or successfully complete the clinical competence  
19 assessment program within the designated time period, respondent shall receive a notification  
20 from the Board or its designee to cease the practice of medicine within three (3) calendar days  
21 after being so notified. Respondent shall not resume the practice of medicine until enrollment or  
22 participation in the outstanding portions of the clinical competence assessment program have  
23 been completed. If respondent did not successfully complete the clinical competence assessment  
24 program, respondent shall not resume the practice of medicine until a final decision has been  
25 rendered on the accusation and/or a petition to revoke probation. The cessation of practice shall  
26 not apply to the reduction of the probationary time period.

27 4. **MONITORING – PRACTICE** Within 30 calendar days of the effective date of  
28 this Decision, respondent shall submit to the Board or its designee for prior approval as a practice

1 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
2 licenses are valid and in good standing, and who are preferably American Board of Medical  
3 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
4 relationship with respondent, or other relationship that could reasonably be expected to  
5 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
6 but not limited to any form of bartering, shall be in respondent's field of practice, and must agree  
7 to serve as respondent's monitor. Respondent shall pay all monitoring costs.

8 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
9 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
10 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
11 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
12 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
13 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
14 signed statement for approval by the Board or its designee.

15 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
16 probation, respondent's practice shall be monitored by the approved monitor. Respondent shall  
17 make all records available for immediate inspection and copying on the premises by the monitor  
18 at all times during business hours and shall retain the records for the entire term of probation.

19 If respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
20 date of this Decision, respondent shall receive a notification from the Board or its designee to  
21 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
22 shall cease the practice of medicine until a monitor is approved to provide monitoring  
23 responsibility.

24 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
25 includes an evaluation of respondent's performance, indicating whether respondent's practices are  
26 within the standards of practice of medicine, and whether respondent is practicing medicine  
27 safely. It shall be the sole responsibility of respondent to ensure that the monitor submits the

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1 quarterly written reports to the Board or its designee within 10 calendar days after the end of the  
2 preceding quarter.

3 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of  
4 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
5 name and qualifications of a replacement monitor who will be assuming that responsibility within  
6 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60  
7 calendar days of the resignation or unavailability of the monitor, respondent shall receive a  
8 notification from the Board or its designee to cease the practice of medicine within three (3)  
9 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
10 replacement monitor is approved and assumes monitoring responsibility.

11 In lieu of a monitor, respondent may participate in a professional enhancement program  
12 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
13 review, semi-annual practice assessment, and semi-annual review of professional growth and  
14 education. Respondent shall participate in the professional enhancement program at respondent's  
15 expense during the term of probation.

16 5. **SOLO PRACTICE PROHIBITION** Respondent is prohibited from engaging in  
17 the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice  
18 where: 1) respondent merely shares office space with another physician but is not affiliated for  
19 purposes of providing patient care, or 2) respondent is the sole physician practitioner at that  
20 location.

21 If respondent fails to establish a practice with another physician or secure employment in an  
22 appropriate practice setting within 60 calendar days of the effective date of this Decision,  
23 respondent shall receive a notification from the Board or its designee to cease the practice of  
24 medicine within three (3) calendar days after being so notified. Respondent shall not resume  
25 practice until an appropriate practice setting is established.

26 If, during the course of the probation, respondent's practice setting changes and respondent  
27 is no longer practicing in a setting in compliance with this Decision, respondent shall notify the  
28 Board or its designee within five (5) calendar days of the practice setting change. If respondent

1 fails to establish a practice with another physician or secure employment in an appropriate  
2 practice setting within 60 calendar days of the practice setting change, respondent shall receive a  
3 notification from the Board or its designee to cease the practice of medicine within three (3)  
4 calendar days after being so notified. Respondent shall not resume practice until an appropriate  
5 practice setting is established.

6       6.    **NOTIFICATION** Within seven (7) days of the effective date of this Decision,  
7 respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
8 Chief Executive Officer at every hospital where privileges or membership are extended to  
9 respondent, at any other facility where respondent engages in the practice of medicine, including  
10 all physician and locum tenens registries or other similar agencies, and to the Chief Executive  
11 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.  
12 Respondent shall submit proof of compliance to the Board or its designee within 15 calendar  
13 days.

14       This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

15       7.    **SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED**  
16 **PRACTICE NURSES** During probation, respondent is prohibited from supervising physician  
17 assistants and advanced practice nurses.

18       8.    **OBEY ALL LAWS** Respondent shall obey all federal, state and local laws, all rules  
19 governing the practice of medicine in California and remain in full compliance with any court  
20 ordered criminal probation, payments, and other orders.

21       9.    **QUARTERLY DECLARATIONS** Respondent shall submit quarterly declarations  
22 under penalty of perjury on forms provided by the Board, stating whether there has been  
23 compliance with all the conditions of probation.

24       Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
25 of the preceding quarter.

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1           10.   **GENERAL PROBATION REQUIREMENTS**

2           **Compliance with Probation Unit**

3           Respondent shall comply with the Board's probation unit.

4           **Address Changes**

5           Respondent shall, at all times, keep the Board informed of respondent's business and  
6           residence addresses, email address (if available), and telephone number. Changes of such  
7           addresses shall be immediately communicated in writing to the Board or its designee. Under no  
8           circumstances shall a post office box serve as an address of record, except as allowed by Business  
9           and Professions Code section 2021(b).

10          **Place of Practice**

11          Respondent shall not engage in the practice of medicine in respondent's or patient's place  
12          of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
13          facility.

14          **License Renewal**

15          Respondent shall maintain a current and renewed California physician's and surgeon's  
16          license.

17          **Travel or Residence Outside California**

18          Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
19          areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
20          (30) calendar days.

21          In the event respondent should leave the State of California to reside or to practice,  
22          respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
23          departure and return.

24          11.   **INTERVIEW WITH THE BOARD OR ITS DESIGNEE**   Respondent shall be  
25          available in person upon request for interviews either at respondent's place of business or at the  
26          probation unit office, with or without prior notice throughout the term of probation.

27          12.   **NON-PRACTICE WHILE ON PROBATION**   Respondent shall notify the Board  
28          or its designee in writing within 15 calendar days of any periods of non-practice lasting more than

1 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is  
2 defined as any period of time respondent is not practicing medicine as defined in Business and  
3 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
4 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
5 respondent resides in California and is considered to be in non-practice, respondent shall comply,  
6 with all terms and conditions of probation. All time spent in an intensive training program which  
7 has been approved by the Board or its designee shall not be considered non-practice and does not  
8 relieve respondent from complying with all the terms and conditions of probation. Practicing  
9 medicine in another state of the United States or Federal jurisdiction while on probation with the  
10 medical licensing authority of that state or jurisdiction shall not be considered non-practice. A  
11 Board-ordered suspension of practice shall not be considered as a period of non-practice.

12 In the event respondent's period of non-practice while on probation exceeds 18 calendar  
13 months, respondent shall successfully complete the Federation of State Medical Boards' Special  
14 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
15 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
16 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

17 Respondent's period of non-practice while on probation shall not exceed two (2) years.

18 Periods of non-practice will not apply to the reduction of the probationary term.

19 Periods of non-practice for a respondent residing outside of California will relieve  
20 respondent of the responsibility to comply with the probationary terms and conditions with the  
21 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
22 General Probation Requirements; and Quarterly Declarations.

23 13. **COMPLETION OF PROBATION** Respondent shall comply with all financial  
24 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
25 completion of probation. Upon successful completion of probation, respondent's certificate shall  
26 be fully restored.

27 14. **VIOLATION OF PROBATION** Failure to fully comply with any term or  
28 condition of probation is a violation of probation. If respondent violates probation in any respect,

1 the Board, after giving respondent notice and the opportunity to be heard, may revoke probation  
2 and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
3 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board  
4 shall have continuing jurisdiction until the matter is final, and the period of probation shall be  
5 extended until the matter is final.

6 15. **LICENSE SURRENDER** Following the effective date of this Decision, if  
7 respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
8 the terms and conditions of probation, respondent may request to surrender his or her license.  
9 The Board reserves the right to evaluate respondent's request and to exercise its discretion in  
10 determining whether or not to grant the request, or to take any other action deemed appropriate  
11 and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent  
12 shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its  
13 designee and respondent shall no longer practice medicine. Respondent will no longer be subject  
14 to the terms and conditions of probation. If respondent re-applies for a medical license, the  
15 application shall be treated as a petition for reinstatement of a revoked certificate.

16 16. **PROBATION MONITORING COSTS** Respondent shall pay the costs associated  
17 with probation monitoring each and every year of probation, as designated by the Board, which  
18 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
19 California and delivered to the Board or its designee no later than January 31 of each calendar  
20 year.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Carolyn Lindholm, Esq. I understand the stipulation and the effect  
4 it will have on my Physician's and Surgeon's Certificate No. A 105271. I enter into this  
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
6 to be bound by the Decision and Order of the Medical Board of California.

7  
8 DATED:

July 10, 2018

Thomas Bui

THOMAS THANH BUI, M.D.  
Respondent

10 I have read and fully discussed with respondent Thomas Thanh Bui, M.D. the terms and  
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
12 I approve its form and content.

13  
14 DATED:

7/10/18

Carolyn Lindholm

CAROLYN LINDHOLM, ESQ.  
Attorney for Respondent

16  
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
19 submitted for consideration by the Medical Board of California.

20  
21 Dated:

7/10/2018

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General

Michael J. Yun

MICHAEL J. YUN  
Deputy Attorney General  
Attorneys for Complainant

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27  
28 SD2017801408  
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**Exhibit 1**

**Accusation No. 800-2015-013567**

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 MICHAEL J. YUN  
Deputy Attorney General  
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant.*

10 BEFORE THE  
11 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2015-013567

14 Thomas Thanh Bui, M.D.  
220 Commerce, Suite 100  
15 Irvine, Ca 92602-1323

ACCUSATION

16 Physician's and Surgeon's Certificate  
No. A 105271,

17 Respondent.

18  
19  
20 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
24 Affairs (Board).

25 2. On or about August 20, 2008, the Medical Board issued Physician's and Surgeon's  
26 Certificate Number A105271 to Thomas Thanh Bui, M.D. (Respondent). The Physician's and  
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on August 31, 2018, unless renewed.



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1 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
2 for that negligent diagnosis of the patient shall constitute a single negligent act.

3 “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
4 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
5 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
6 applicable standard of care, each departure constitutes a separate and distinct breach of the  
7 standard of care.

8 “...”

9 6. Unprofessional conduct under Business and Professions Code section 2234 is conduct  
10 which breaches the rules or ethical code of the medical profession, or conduct which is  
11 unbecoming a member in good standing of the medical profession, and which demonstrates an  
12 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
13 575.)

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Gross Negligence)**

16 7. Respondent has subjected his Physician's and Surgeon's Certificate No.  
17 A105271 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
18 subdivision (b), of the Code, in that Respondent committed gross negligence in his care and  
19 treatment of patient C.E., as more particularly alleged hereinafter:

20 **Patient C.E.**

21 (a) On or about November 18, 2014, patient C.E. was admitted to Mesa Verde  
22 Convalescent Hospital, a skilled nursing facility (SNF). Respondent gave verbal orders to the  
23 nurse at SNF for the following psychotropic medications for patient C.E.: Ativan, Seroquel, and  
24 Zoloft (psychotropic medications). Although the order stated that informed consent for these  
25 psychotropic medications has been obtained from the responsible party, Respondent did not speak  
26 to patient C.E.'s responsible party until the following day, on or about November 19, 2014.

27 (b) On or about November 19, 2014, Respondent saw patient C.E. for the first time and  
28 performed a history and physical examination. Respondent documented that he obtained

1 informed consent from patient C.E. for the administration of psychotropic medications listed in  
2 paragraph (a), above. However, Respondent also documented that patient C.E. had an altered  
3 level of consciousness.

4 (c) On or about November 24, 2014, Respondent ordered phenobarbital 64.8 mg tablet 3  
5 tablets, orally, twice per day for seizure prophylaxis, despite the fact that patient C.E. did not have  
6 a history of seizures.

7 (d) On or about November 25, 2014, Respondent ordered Keppra 500 mg, orally, every  
8 12 hours for seizure prophylaxis, even though patient C.E. had not suffered a seizure.

9 (e) On or about November 28, 2014, patient C.E. was transferred to an assisted living  
10 facility, De Palma Terrace Senior Living (ALF).

11 (f) On or about December 4, 2014, Respondent documented that patient C.E. was  
12 ambulatory when he was admitted to ALF on November 28, 2014, despite the fact that patient  
13 C.E.'s nurse documented that patient C.E. had poor balance and was bedbound.

14 (g) Respondent committed gross negligence in his care and treatment of patient C.E.,  
15 which included, but was not limited to:

16 (h) Respondent prescribed patient C.E. phenobarbital and Keppra without medical  
17 indication; and prescribed patient C.E. phenobarbital, a drug with a long half-life, two times per  
18 day, instead of once per day.

19 (i) Respondent failed to monitor patient C.E.'s response to the medications he prescribed  
20 to him.

21 (j) Respondent ordered psychotropic medications, specifically, Zoloft, Ativan, and  
22 Seroquel, for patient C.E., and documented that he had obtained informed consent from patient  
23 C.E. and his responsible party when in fact he had not.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 8. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
4 A105271 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
5 subdivision (c), of the Code, in that he committed repeated negligent acts, as more particularly  
6 alleged hereinafter:

7 (a) Paragraphs 7(a) to (j) above, are incorporated by reference and realleged as if fully set  
8 forth herein.

9 (b) Respondent committed repeated negligent acts which included, but were not limited  
10 to, the following:

11 (1) Respondent prescribed patient C.E. phenobarbital and Keppra without medical  
12 indication.

13 (2) Respondent prescribed patient C.E. phenobarbital, a drug with a long half-life, two  
14 times per day instead of once per day.

15 (3) Respondent failed to monitor patient C.E.'s response to the medications Respondent  
16 prescribed to him.

17 (4) Respondent ordered psychotropic medications, specifically, Zoloft, Ativan, and  
18 Seroquel, and documented that he had obtained informed consent from patient C.E. and his  
19 responsible party when he had not.

20 (5) Respondent erroneously documented that patient C.E. was ambulatory on November  
21 28, 2014, upon his admission to an assisted living facility, despite the fact that patient C.E.'s  
22 nurse documented that patient C.E. had poor balance and was bedbound.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Records)**

3 9. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
4 A105271 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the  
5 Code, in that he failed to maintain adequate and accurate records relating to his care and treatment  
6 of patient C. E., as more particularly alleged in paragraphs 7 through 8, above; which are hereby  
7 incorporated by reference and realleged as if fully set forth herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(General Unprofessional Conduct)**

10 10. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
11 A105271 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged  
12 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is  
13 unbecoming to a member in good standing of the medical profession, and which demonstrates an  
14 unfitness to practice medicine, as more particularly alleged in paragraphs 7 through 9, above,  
15 which are hereby incorporated by reference as if fully set forth herein.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Medical Board of California issue a decision:

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate No. A105271, issued  
5 to Respondent Thomas Thanh Bui, M.D.;
- 6 2. Revoking, suspending or denying approval of Respondent Thomas Thanh Bui, M.D.'s  
7 authority to supervise physician assistants and advanced practice nurses;
- 8 3. Ordering Respondent Thomas Thanh Bui, M.D., if placed on probation, to pay the  
9 Board the costs of probation monitoring; and
- 10 4. Taking such other and further action as deemed necessary and proper.
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13 DATED: September 18, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant